

§ 88.4

§ 88.4 Requirements and prohibitions.

(a) Entities to whom this paragraph (a) applies shall not:

(1) Subject any institutional or individual health care entity to discrimination for refusing:

(i) To undergo training in the performance of abortions, or to require, provide, refer for, or make arrangements for training in the performance of abortions;

(ii) To perform, refer for, or make other arrangements for, abortions; or

(iii) To refer for abortions;

(2) Subject any institutional or individual health care entity to discrimination for attending or having attended a post-graduate physician training program, or any other program of training in the health professions, that does not or did not require attendees to perform induced abortions or require, provide, or refer for training in the performance of induced abortions, or make arrangements for the provision of such training;

(3) For the purposes of granting a legal status to a health care entity (including a license or certificate), or providing such entity with financial assistance, services or benefits, fail to deem accredited any postgraduate physician training program that would be accredited but for the accrediting agency's reliance upon an accreditation standard or standards that require an entity to perform an induced abortion or require, provide, or refer for training in the performance of induced abortions, or make arrangements for such training, regardless of whether such standard provides exceptions or exemptions;

(b)(1) Any entity to whom this paragraph (b)(1) applies shall not subject any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for, abortion.

(2) Entities to whom this paragraph (b)(2) applies shall not subject any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortion, as part of the federal program for which it receives funding.

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(c) Entities to whom this paragraph (c) applies shall not:

(1) Discriminate against any physician or other health care professional in the employment, promotion, termination, or extension of staff or other privileges because he performed or assisted in the performance, or refused to perform or assist in the performance of a lawful sterilization procedure or abortion on the grounds that doing so would be contrary to his religious beliefs or moral convictions, or because of his religious beliefs or moral convictions concerning abortions or sterilization procedures themselves;

(2) Discriminate against or deny admission to any applicant for training or study because of reluctance or willingness to counsel, suggest, recommend, assist, or in any way participate in the performance of abortions or sterilizations contrary to or consistent with the applicant's religious beliefs or moral convictions.

(d) Entities to whom this paragraph (d) applies shall not:

(1) Require any individual to perform or assist in the performance of any part of a health service program or research activity funded by the Department if such service or activity would be contrary to his religious beliefs or moral convictions.

(2) Discriminate in the employment, promotion, termination, or the extension of staff or other privileges to any physician or other health care personnel because he performed, assisted in the performance, refused to perform, or refused to assist in the performance of any lawful health service or research activity on the grounds that his performance or assistance in performance of such service or activity would be contrary to his religious beliefs or moral convictions, or because of the religious beliefs or moral convictions concerning such activity themselves.

(e) Entities to whom this paragraph (e) applies shall not, on the basis that the individual or entity has received a grant, contract, loan, or loan guarantee under the Public Health Service Act, the Community Mental Health Centers Act, or the Developmental Disabilities Assistance and Bill of Rights Act of 2000, require:

(1) Such individual to perform or assist in the performance of any sterilization procedure or abortion if his performance or assistance in the performance of such procedure or abortion would be contrary to his religious beliefs or moral convictions, or

(2) Such entity to:

(i) Make its facilities available for the performance of any sterilization procedure or abortion if the performance of such procedure or abortion in such facilities is prohibited by the entity on the basis of religious beliefs or moral convictions, or

(ii) provide any personnel for the performance or assistance in the performance of any sterilization procedure or abortion if the performance or assistance in the performance of such procedure or abortion by such personnel would be contrary to the religious beliefs or moral convictions of such personnel.

§ 88.5 Written certification of compliance.

(a) *Certification Requirement.* Except as provided in paragraph (e) of this section, recipients shall include the written certifications as set forth in paragraph (c)(4) of this section in the application for the grant, cooperative agreement, contract, grant under a contract, memorandum of understanding or other funding or employment instrument or contract, as applicable. Except as provided in paragraph (e) of this section, sub-recipients must provide the Certification of Compliance as set out in paragraph (d)(3) of this section, submitted as part of the sub-recipient's original agreement with the recipient in the execution of its grant, cooperative agreement, contract, grant under a contract, memorandum of understanding or other funding instrument or contract, or in a separate writing, signed by the sub-recipient's officer or other person authorized to bind the sub-recipient. All certifications shall be addressed directly to the Department; recipients are required to submit their certifications directly to the Department. Recipients and sub-recipients shall be required to be in full compliance with all applicable certification requirements by no later than the beginning of the federal fiscal year fol-

lowing the effective date of this regulation.

(b) *Notification of Certification Requirement.* The Department shall notify recipients of funding of the certification requirement at the time of award through the Request for Proposal, Request for Agreement, Provider Agreement, contract, guidance, or other public announcement of the availability of funding. Recipients shall not construe anything in this paragraph to mean that an entity or organization is in any way exempt from providing the certification in the event the Department should fail to provide notification.

(c) *Certification by recipients.* (1) Except as provided in paragraph (e) of this section, all recipients through any instrument must provide the Certification of Compliance as set out in paragraph (c)(4) of this section, submitted as part of the recipient's application for the grant, cooperative agreement, contract, grant under a contract, memorandum of understanding or other funding instrument or contract or in a separate writing signed by the recipients' officer or other person authorized to bind the recipient.

(2) Recipients must file with the Department a renewed certification upon any renewal, extension, amendment, or modification of the grant, cooperative agreement, contract, grant under a contract, memorandum of understanding or other funding or employment instrument or contract that extends the term of such instrument or adds additional funds to it. Recipients that are already recipients as of the effective date of this regulation must file a certification upon any extension, amendment, or modification of the grant, cooperative agreement, contract, grant under a contract, memorandum of understanding or other funding instrument or contract that extends the term of such instrument or adds additional funds to it.

(3) Recipients shall require certifications and re-certifications by all sub-recipients that receive funding through their association with the recipient. Recipients shall require these certifications and re-certifications as often as recipients are required to sign or amend the instrument, for as long as the relationship between the recipient